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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,291	06/07/2001	David F. Tobias	1001-0179	9539

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EXAMINER

CONNOLLY, MARK A

ART UNIT PAPER NUMBER

2115

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/876,291

Applicant(s)

TOBIAS ET AL.

Examiner

Mark Connolly

Art Unit

2115

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-10, 14-19, 21-24 and 26-28.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**CHUN CAO  
PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: The amendments to claims 1, 16 and 24 filed 11/14/2006 have been entered because they do not raise any new issues requiring further search and further consideration as they are in accordance with the examiners previous interpretations as set forth in the previous office action. The claim objections with regards to claims 1 and 16 have been withdrawn. Furthermore, the rejection of claim 24 under U.S.C 101 has also been withdrawn. The rejections for claims 1, 16 and 24 under U.S.C. 102 as set forth in the previous office action still stand.

Applicants argue in substance that Hetzler does not teach 1) a maximum performance state and a plurality of other performance states that provide successively less performance capability for an integrated circuit, 2) skipping all intermediate states each time the system determines that a higher performance state is required and 3) switching between states is not based on utilization.

Referring to argument 1, Hetzler teaches a plurality of power-save modes in addition to the active state modes (SEEK/READ and IDLE). In particular, Hetzler teaches an IDLE2 state the controller 56 is not responsible for controlling the servo and read tasks thus allowing the reduction in power [col. 6 lines 42-50]. Secondly, Hetzler teaches a STANDBY mode which additionally powers off the spindle control electronics portion of the controller [col. 6 lines 50-57]. Finally, Hetzler teaches a sleep mode that powers off almost all remaining electronics except those necessary for responding to a SLEEP recovery [col. 6 lines 57-63]. It is evident that the performance state of each power-save mode becomes progressively lower as a deeper power save mode is entered since additional control functionality is powered off in each successive power-save mode. Furthermore, Hetzler also teaches that each power-save mode has an associated recovery time indicating the necessary time required to return to the active state from the respective power-save mode [col. 1 lines 45-47 and col. 2 lines 61-63]. As shown in TABLE2, as the power-save mode becomes deeper, the recovery time increases; therefore it is further evident that the power-save modes compromise different performance states since some states have the ability to recover faster than others.

Referring to argument 2, Hetzler, as cited by applicant, teaches "once a power-save mode has been entered, it may be exited by either another power-save mode or by returning the component to an active state" [col. 15 lines 30-32]. What applicant fails to disclose is that immediately after, Hetzler explicitly states that "[t]he former occurs when the estimated access frequency continues to drop" and "[t]he latter occurs when ... a component access occurs... that results in a component-initiated entering of the active state" [col. 15 lines 33-38]. In summary, as component access decreases, the system is capable of entering progressively deeper power-save modes but when the component is accessed, it immediately enters the active state.

Referring to argument 3, Hetzler teaches entering the active state when a periodic access pattern is detected or when component access occurs [col. 15 lines 35-38]. A periodic access pattern and actual component access are both interpreted as utilization since both are based on usage (i.e. utilization) of the component.

Claim 1 still stands rejected over Hetzler thus the application is not in condition for allowance..